



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,508	03/29/2001	Dennis Sunga Fernandez	FERN-P001E	9844

22877 7590 06/10/2005

FERNANDEZ & ASSOCIATES LLP  
1047 EL CAMINO REAL  
SUITE 201  
MENLO PARK, CA 94025

EXAMINER
----------

VO, TUNG T

ART UNIT	PAPER NUMBER
----------	--------------

2613

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/823,508

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung Vo

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18, 19, 22-32, 34, 35 and 37-49 is/are pending in the application.
- 4a) Of the above claim(s) 1-17, 20, 21 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 22-32, 34, 35 and 37-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/27/2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-19, 24-26, 28-32, 34-35, and 37-49 rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,959,577) in view of Hollenberg (US 6,091,956).

Re claims 18 and 46-47, Fan teaches an Internet coupled network for electronically linking at least one fixed vendor processor (base station, 27 of fig. 1) to at least one mobile buyer processor (1 and 3 of fig. 1) comprising:

a storage (32 of fig. 2) and a processor (38 of fig. 2) for carrying out a method for transacting between vendor and buyer processor comprising the step of: determining a first location of a mobile buyer processor coupled to the Internet (col. 3);

Art Unit: 2613

receiving from the mobile buyer processor a first transaction message (18 of fig. 13);  
sending to the mobile buyer processor a second transaction message indicating a first fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51);

wherein the second transaction message is caused to be sent adaptively by software that matches a mobile interest as maps, traffic situation in particular area, position of service stations and destination of interest, with a fixed vendor service or product ms position of service stations by using past movement or location of the mobile buyer, thereby local transaction efficiently between the mobile buyer and a nearby vendor (32, 36, 38 of fig. 2, e.g. the processing unit (38) process a mobile interest from database storage (32) based upon the request by the user, wherein the processing unit is able to locate a nearby vendor for the user interest; see also col. 4, lines 42-55).

Moreover, Fan further teaches the second transaction message indicating real-time inventory (update gas station, food, or hotel services) or product of interest to the mobile buyer available at the nearby vendor (27, 32 of fig. 2), the software providing by the vendor processor (38 of fig. 2) to a video surveillance of the mobile buyer (Under periodic update mode 53, at step 55, mobile unit 1 waits for the next scheduled position update. At the time of a scheduled update, i.e., at step 58, a mobile unit (1) calls to establish network service connection 10 for accessing data network 27 and transmits to data processing station 18 an outbound data package. Upon receiving the outbound data package, data processing station 18 responds to the operator's query by searching database 32, updating a map retrieved from map storage 63, and transmitting the map to mobile unit 1 an inbound data package, see figs. 12 and 13). It is interpreted that the real time inventory of service of interest to the mobile buyer available at the nearby vendor is the

Art Unit: 2613

inbound area that provides the services of gas station, food, or hotel are available to the mobile buyer.

It is noted that Fan teaches the second transaction message (the request for second inbound area) indicating real-time inventory of service (the gas station, food, or hotel is available in the inbound area at real time) or product of interest to the mobile buyer available at the nearby vendor, the software providing access by the vendor processor to a video surveillance of the mobile buyer (fig. 2, elements 18, 32 and 38; see also figs. 12 and 13, the mobile user selects gas station (request the inbound map) the map with gas station are shown on the LCD at the real time, called real time inventory of service).

However, Fan does not particularly suggest or teach location based pricing of service or product of interest to the mobile buyer available at the nearby vendor and thereby enabling visual reorganization of a personal image such mobile buyer as claimed.

Hollenberg teaches location based pricing of service or product of interest to the mobile buyer available at the nearby vendor (col. 9, lines 15-23, e.g. an information system with which a shopper can better serve himself or herself by, for example, determining product availability by querying a store's inventory, determining the price of products using a handheld multiple-use electronic device which includes a bar-code reading device, and electronically paying for the selected merchandise without requiring assistance from store personnel) and thereby enabling visual reorganization of a personal image such mobile buyer (9m of fig. 9, e.g. the camera can detect an image of a buyer).

Therefore, taking the teachings of Fan and Hollenberg a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Hollenberg into the

Art Unit: 2613

Internet coupled network of Fan for to update the location based pricing of service and able view or observe the image of the person of mobile buyer.

Doing so would allow many stores are cutting costs by reducing staffing and merchandise inventories. Shoppers searching for price or stock information in a store must now spend more time searching the isles for help in finding the merchandise they seek. Clearly, useful time-critical and specific information about stores' offerings--merchandise information--is increasingly out of reach.

Re claims 19, Fan further teaches the step of determining a second location of the mobile buyer processor coupled to the intermit; receiving from the mobile buyer processor a second transaction message (cols. 3 and 4); sending to the mobile buyer processor a third transaction message indicating a second (col. 5) fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51).

Re claim 24, Fan further teaches a vendor processor (38 of fig. 2) employs a software agent associated with mobile buyer processor to access a database (32 of fig. 2).

Re claim 25, Fan further teaches the transaction message is sent to mobile buyer processor according to portable identifier associated with the mobile buyer processor (1 of fig.

Re claim 26, Fan further teaches an object representation of the mobile buyer processor comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio (map, col. 5, lines 40-52).

Art Unit: 2613

Re claim 28, Fan further teaches the mobile processor is monitored temporarily using an extrapolated or last-stored positional or visual serial (22 of fig. 1., col. 6, lines 6-40, e.g. web browser).

Re claim 29, Fan further teaches the mobile buyer processor is authenticated according to a voice pattern, a fingerprint pattern, a hand written signature, or a magnetic or smart card spiral (col. 5, lines 53-67, e.g. telephone network used for voice pattern, wireless network use for every transmission included voice, video, text).

Re claims 30-32, 34-35, and 37-45, Fan teaches the transmission between the mobile unit (1 of fig. 1) and monitor (22 of fig. 1) over the Internet, which is in the form of an electronic mail message, as considered an electronic file, a research database (map). Since Fan uses the data network (27 of fig. 1) such as the Intermit or telephone network or wireless network to communicate between the mobile (1 and 3 of fig. 1) and the monitor (22 of fig. 1), a user is able to receive a greeting car, news report includes stock report, artwork, person list, music, and live music transmission, electronic tool, and a commercial transaction (col. 6, e.g. web browser, electronic mail).

Re claims 48-49, Fan further teaches the processor receives a spiral from a sensor coupled to a mobile vehicle (Gas-meter is sensing gas or battery at low or empty) to determine that vehicle fuel or power is low or empty, thereby modification the mobile buyer interest for matching appropriate vendor service or product (direction to the gas station, col. 5, lines 22-53), and a signal from a sensor coupled to a mobile buyer vehicle to determine that the vehicle has a flat tire or airbag deployment, thereby modification the mobile buyer interest for matching

Art Unit: 2613

appropriate vendor service or product (col. 5 and col. 6, e.g. the monitor (22 of fig. 2) is monitoring all activities, including that tire of the truck company).

3. Claims 22-23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,959,577) in view of Hollenberg (US 6,091,956) as applied to claim 18, and further in view of Kennedy, 111 et al. (US 6,301,480).

Re claims 22-23, and 27, the combination of Fan and Hollenberg teaches the mobile detector but it does not particularly teach a mobile communication unit comprises an accelerometer, and a modification according a rule set as claimed.

However, Kennedy teaches a mobile communication unit (12 of fig. 1) comprises an accelerometer and personal health sensor, and modification according a rule set (col. 3, lines 5-19).

Therefore, taking the combined teachings of Fan, Hollenberg, and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the combined system of Fan and Hollenberg for the same purpose of communicating between the remote patient and central station fast and more accuracy.

Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services. These services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.



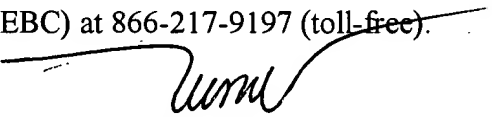
Art Unit: 2613

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tung Vo  
Primary Examiner  
Art Unit 2613